

AMENDED IN ASSEMBLY MAY 27, 2016

AMENDED IN ASSEMBLY APRIL 25, 2016

AMENDED IN ASSEMBLY APRIL 6, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2036

Introduced by Assembly Member Lopez
(Coauthor: Assembly Member Cristina Garcia)

February 16, 2016

An act to add Chapter 2.3 (commencing with Section 18890) to Division 8 of the Business and Professions Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

AB 2036, as amended, Lopez. Online child care job posting services: background check service providers: consumer education.

Existing law prohibits a person, firm, partnership, association, or corporation from operating, establishing, managing, conducting, or maintaining a child day care facility without a current valid license.

Existing law requires the Community Care Licensing Division of the State Department of Social Services to regulate child care licensees. Existing law requires the department to establish a registry of child care providers who are not required to be licensed, but who have undergone criminal background checks. These license-exempt providers are known as registered trustline child care providers. Existing law also requires a licensed child day care facility to make available to the public licensing reports and other licensing documents that pertain to a facility visit or a substantiated complaint investigation, among other licensing issues.

Existing law establishes in the State Treasury the Child Health and Safety Fund. Existing law authorizes the department to allocate these

funds, upon appropriation by the Legislature, for purposes that include, among other things, technical assistance, orientation, training, and education of child day care facility providers.

This bill would require an online child care job posting service posting information on an Internet Web site in California to include, among other things, a statement about the trustline registry and, if the service provides access to a background check, a written description of the background check provided to it by the background check service provider. The bill would make a background check service provider responsible for providing the online child care job posting service with certain information. The bill would make the Attorney General responsible for the enforcement of these provisions, as specified. The bill would impose a fine of \$1,000 per violation for a 2nd or subsequent violation of these requirements, after written notice and an opportunity for a hearing. The bill would require fines to be deposited in the Child Health and Safety Fund and would authorize these fines to be available, upon appropriation, for, among other things, education and training of child day care facility providers. The bill would also authorize an individual damaged by willful violation of these provisions to bring a civil cause of action for damages, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 2.3 (commencing with Section 18890)
2 is added to Division 8 of the Business and Professions Code, to
3 read:

4
5 CHAPTER 2.3. ONLINE CHILD CARE JOB POSTING SERVICES
6

7 18890. For the purposes of this chapter, the following
8 definitions apply:

9 (a) "Online child care job posting service" means any person
10 or business that provides or offers to provide child care providers.

11 (b) "Background check service provider" means any person or
12 business that provides or offers to provide background check
13 services.

1 18890.2. (a) An online child care job posting service posting
2 information on an Internet Web site in California shall include a
3 description of, or link to, the following statements:

4 (1) Trustline is California's official background check for
5 license-exempt child care providers (i.e. babysitters and nannies)
6 and the only authorized screening program in California with
7 access to fingerprint records at the California Department of Justice
8 and the Federal Bureau of Investigation and access to the California
9 Child Abuse Central Index. ~~The trustline~~ *Trustline* registry toll-free
10 *telephone* number is 1-800-822-8490.

11 (2) Nonexempt family child care homes and child care centers
12 are required to be licensed by the State of California. Pursuant to
13 Oliver's Law, parents have the right to receive information
14 regarding any substantiated or inconclusive complaint about any
15 child care provider. That information is public and can be acquired
16 by visiting the State Department of Social Services' Internet Web
17 site at "www.cclld.ca.gov."

18 (b) If the online child care job listing service provides access
19 to a background check for the child care providers listed on its
20 Internet Web site, it shall provide, by means of a one-click link on
21 each California child care provider profile for which background
22 checks are offered, the written description of the background check
23 provided to it by the background check service provider.

24 (c) Background check service providers that offer background
25 checks through the Internet Web sites in California of online child
26 care job posting services in California shall provide to the online
27 child care job posting services a written description of the
28 background checks offered by the background check service
29 provider that includes at a minimum:

30 (1) A detailed description of what is included in the background
31 check.

32 (2) A chart that lists each county in California and the databases
33 that are checked for each county, including the following
34 information for each database, as applicable:

35 (A) The source of the data, the name of the database used, and
36 a brief description of the data included in the database.

37 (B) The date range of the oldest data and the most recent data
38 included.

39 (C) How often the information is updated.

1 (D) How the databases are checked (by name, social security
2 number, fingerprints, etc.).

3 (E) A list of the counties for which no data is available.

4 18890.4. (a) Upon a complaint received by the Attorney
5 General, the Attorney General shall review the online child care
6 job posting service or background check service provider named
7 in the complaint. If the Attorney General determines that an online
8 child care job posting service or background check service provider
9 is in violation of this chapter or any rules or regulations adopted
10 under this chapter pursuant to the Administrative Procedure Act
11 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
12 Division 3 of Title 2 of the Government Code), a notice of violation
13 shall be served upon the online child care job posting service or
14 background check service provider. Each notice of violation shall
15 be in writing and shall specify the nature of the violation and the
16 statute, rule, or regulation alleged to have been violated, describe
17 the opportunity for a fair hearing pursuant to regulations adopted
18 by the Attorney General consistent with the requirements described
19 in subdivision (b), and specify the potential fine that may be
20 imposed for a second or third violation pursuant to subdivision
21 (c).

22 (b) In the first case of alleged noncompliance, the Attorney
23 General shall provide written notice of the violation to the online
24 child care job posting service or background check service
25 provider. The online child care job posting service or background
26 check service provider shall have 30 calendar days to correct the
27 violation or request a hearing on the matter. If the online child care
28 job posting service or background check service provider has
29 evidence that the Internet Web site in question is in compliance,
30 the online child care job posting service or background check
31 service provider shall submit proof of that compliance directly to
32 the Attorney General. Evidence of compliance may be in the form
33 of printouts, Internet Web site links, screenshots, or other means
34 determined to be acceptable to the Attorney General. Consistent
35 with due process, the Attorney General shall adopt regulations to
36 govern the notice, hearing, and the submission of evidence for
37 purposes of this section.

38 (c) For second and subsequent violations, after reasonable
39 written notice and time to correct the violation, and the opportunity
40 for a fair hearing on the matter, pursuant to regulations adopted

1 by the Attorney General, if the online child care job posting service
2 or background check service provider is found to be in violation
3 of this chapter, the Attorney General shall impose a fine of one
4 thousand dollars (\$1,000) per violation.

5 (d) Any fines imposed and collected pursuant to this section
6 shall be deposited into the Child Health and Safety Fund created
7 in Section 18285 of the Welfare and Institutions Code. These fines
8 and penalties shall be available, upon appropriation by the
9 Legislature, for the purposes described in subdivisions (d), (e),
10 and (f) of Section 18285 of the Welfare and Institutions Code.

11 18890.6. (a) In addition to the authority granted to the Attorney
12 General in Section 18890.4, an individual damaged by a willful
13 violation of the provisions of this chapter may bring a civil cause
14 of action against an online child care job posting service or
15 background check service provider for damages, including, but
16 not limited to, general damages, special damages, and punitive
17 damages.

18 (b) The court in an action pursuant to this section may award
19 equitable relief, including, but not limited to, an injunction, costs,
20 and any other relief the court deems proper.

21 (c) The rights and remedies provided in this chapter are in
22 addition to any other rights and remedies provided by law.